

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:) Case No: B-1180297 C-13D
JAMES M. PRINCE,)
DONNA M. PRINCE,)
)
Debtor(s))

)

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtors’ plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on February 18, 2011, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On February 18, 2011, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The plan filed by the Debtors proposes a monthly payment of \$1,067.00 per month for a period of at least 36 months. Unsecured creditors will not receive any dividend. There is approximately \$29,066.46 of unsecured debt listed in Schedule “F”.
5. The Debtors’ plan provides that the claim of Chase Home Finance (“Chase”) secured by a deed of trust on the Debtors’ residential real property (“the real property”) shall be paid as a long-term, continuing debt through the plan and a secured arrearage claim also to be paid through the plan.
6. Chase has filed a claim in the amount of \$57,208.94 secured by the real property with ongoing mortgage payments of \$797.81 per month and arrearage through May of 2011 in the amount of \$13,593.90.

7. Additionally, the Debtors' plan provides for the payment of a secured claim with JP Morgan Chase on a 2001 Chevrolet in the amount of \$5,876.38 with interest at the rate of 5.25% per annum in monthly installments of \$133.01.
8. Furthermore, the Debtors' plan provides for the payment of a secured claim with Duke Federal Credit Union ("Duke") on a 2004 Chevrolet in the amount of \$4,201.19 with interest at the rate of 5.25% per annum in monthly installments of \$99.55.
9. The Trustee objects to confirmation of the plan in that the Debtors' proposed plan payments are not sufficient to satisfy the long-term debt claim of Chase, the arrearage claim of Chase, the secured claims of JP Morgan and Duke, and all other secured or priority claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. That, in the alternative, the Debtors' plan payments be increased to \$1,387.00 per month; or
3. For such other and further relief as the Court may deem just or proper.

This the 26th day of April, 2011.

/s/ Benjamin E. Lovell
Benjamin E. Lovell
Attorney for the Trustee
State Bar No: 23266
P.O. Box 3613
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, James & Donna Prince, 1501 Rougemont Rd., Rougemont, NC 27572, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 26th day of April, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell, Esq.

Attorney for the Standing Trustee